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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,892	10/30/2003	John M. Carter	GB920030033US1	9231

7590

08/23/2005

IBM Corporation  
IP Law Department  
11400 Burnet Road  
Austin, TX 78758

EXAMINER
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TRAN, CONGVAN

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/697,892

**Applicant(s)**

CARTER, JOHN M.

**Examiner**

CongVan Tran

**Art Unit**

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 12-16 and 21-26 is/are allowed.
- 6) ☐ Claim(s) 7, 8, 10, 11, 17, 18, 20, 27, 28, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 9, 19 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Double Patenting***

1. Applicant is advised that should claim 30 be found allowable, claim 31 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Objections***

2. Claim 28 are objected to because of the following informalities: The claim 28 should be depended on claim 27. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 7-8, 11, 17-18, 20, 27-28, and 30-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Mauro, II (2004/0203937).

Regarding claims 7-8, 11, 17-18, 20, and 27-28 Mauro discloses a changing the operational mode of wireless communication device using a voice service option

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comprising the steps: receiving a usage mode indication of the multi-sensory device (see fig.1, elements 104, 102, 108, fig.3, step 302, and its description); intercepting an outbound communication (see fig.3, step 304 and its description); and adding the usage mode indication to the outbound communication (see fig.5, steps 306-308 and its description).

Regarding claims 10, 30-31, Forte further discloses wherein the intercepting step intercepts a communication in a protocol layer which implements any one of: Wireless Truncation Protocol; Transmission Control Protocol; and Hypertext Transfer Protocol (see fig.1, fig.3, step 304 and its description).

***Allowable Subject Matter***

5. Claims 9, 19 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 1-6, 12-16, 21-26 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1, 12, and 21, although, the prior arts disclose a mobile communication network. However, none of them teach prioritizing a plurality of data item items into a priority order according to the indicated usage mode of the device, wherein the plurality of data items were received from one or more applications for sending to the device; and sending data items to the device based on the priority order as specifically described in claimed.

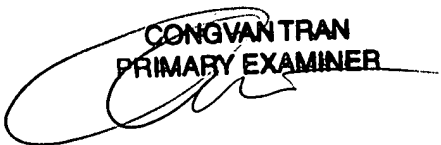
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Claims 2-6, 13-16, 22-26 are allowed as being dependent on independent claims 1, 12, and 21.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CongVan Tran whose telephone number is 571-272-7871. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CONGVAN TRAN  
PRIMARY EXAMINER

CongVan Tran  
Primary Examiner  
Art Unit 2683

Aug. 17, 2005.